

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00083-GPG

MELVIN MAYS,

Plaintiff,

v.

[NO NAMED DEFENDANTS],

Defendant.

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ORDER OF DISMISSAL

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Plaintiff, Melvin Mays, is a prisoner in the custody of the Federal Bureau of Prisons currently incarcerated at the United States Penitentiary in Lewisburg, Pennsylvania. Plaintiff initiated this action by filing *pro se* a letter (ECF No. 1) alleging a violation of his constitutional rights.

On January 13, 2015, Magistrate Judge Gordon P. Gallagher entered an order directing Plaintiff to cure certain deficiencies if he wished to pursue his claims in this action. Specifically, Magistrate Judge Gallagher directed Plaintiff to submit a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the court-approved forms or in the alternative to pay the \$400.00 filing and administrative fees in lieu of submitting the § 1915 motion and supporting documents. Magistrate Judge Gallagher warned Plaintiff that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On February 9, 2015, Plaintiff submitted a motion for extension of time (ECF No. 4) to comply with the January 13 Order. Magistrate Judge Gallagher entered a minute

order on February 10, 2015 granting Plaintiff an additional thirty (30) days from the date of the Minute Order to cure the deficiencies. Magistrate Judge Gallagher also directed the clerk of the court to mail to Plaintiff, together with a copy of the Minute Order, blank copies of the Prisoner Complaint and § 1915 motion and affidavit forms, along with the applicable instructions.

Plaintiff now has failed to cure the deficiencies noted in the January 13 Order, within the time allowed. Therefore, the Court will dismiss this action without prejudice for failure to cure the deficiencies and for failure to comply with a court order.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order is not taken in good faith, and, therefore, *in forma pauperis* status is denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiff files a notice of appeal he must also pay the full \$505.00 appellate filing fee or file a motion to proceed *in forma pauperis* in the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for Plaintiff's failure to cure the deficiencies and for failure to comply with a court order. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied. It is

FURTHER ORDERED that any other pending motions are denied as moot.

DATED at Denver, Colorado, this 20<sup>th</sup> day of March, 2015.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court